



COPY

PATENT
Attorney Docket No. ASC-023DVC2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Eugene A. Fitzgerald
 SERIAL NO.: 10/022,689 GROUP NO.: 2813
 FILING DATE: December 17, 2001 EXAMINER: Laura M. Schillinger
 TITLE: CONTROLLING THREADING DISLOCATION DENSITIES IN Ge
 ON Si USING GRADED GeSi LAYERS AND PLANARIZATION

Mail Stop AF
 Commissioner for Patents
 P.O. Box 1450
 Washington, D.C. 20231

REQUEST FOR RECONSIDERATION OF AMENDMENT NON-ENTRY AND CONDITIONAL REQUEST FOR CONTINUED EXAMINATION

In response to the final Office Action mailed on October 31, 2003, we submitted an amendment to the Office on December 2, 2003. The amendment followed an interview with the Examiner on November 24, 2003, and incorporates the suggestion made by the Examiner during that interview. The amendment made no substantive change to the claims; it merely clarified the order of steps in claim 35.

Under these circumstances, we respectfully question the Examiner's refusal to enter the amendment and consider it on the basis of the art of record. A new search is not required because nothing of substance was added to the claims. Accordingly, we respectfully request reconsideration of the Examiner's refusal to enter the amendment.

In order to minimize late fees, the Examiner is authorized to treat this paper as a request for continued examination, and to enter the December 2, 2003 amendment pursuant thereto, if she maintains her refusal to enter the amendment as filed in response

Request for Reconsideration of Amendment Non-Entry and

Conditional Request for Continued Examination

U.S. Serial No. 10/022,689

Page 2

to the October 31, 2003 Office Action (or if, having been entered, the amendment is not deemed to place the application in condition for allowance). As noted in the amendment, we await receipt of initialed copies of the Forms 1449 that accompanied the Information Disclosure Statements filed on December 17, 2001, August 13, 2003, and August 21, 2003.

This paper is submitted with a petition to extend time for one month, since the amendment was submitted within two months of the mailing date of the final office action. Should further extension or any other fee be occasioned by this paper, the Office is authorized to charge our Deposit Account No. 20-0531.

Respectfully submitted,

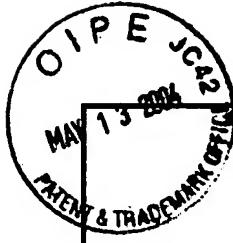


Steven J. Frank
Attorney for Applicant(s)
Testa, Hurwitz, & Thibeault, LLP
High Street Tower
125 High Street
Boston, Massachusetts 02110

Date: April 7, 2004
Reg. No. 33,497

Tel. No.: (617) 310-8108
Fax No.: (617) 248-7100

3049895


 TRANSMITTAL
FORM

Application Serial Number	10/022,689
Filing Date	December 17, 2001
First Named Inventor	Eugene A. Fitzgerald
Group Art Unit	2813
Examiner Name	Laura M. Schillinger
Attorney Docket No.	ASC-023DVC2
Patent No.	Not applicable
Issue Date	Not applicable

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Check Attached <input type="checkbox"/> Copy of Fee Transmittal Form	<input type="checkbox"/> Copy of Notice to File Missing Parts of Application <input type="checkbox"/> Formal Drawing(s)	<input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences <input type="checkbox"/> Appeal Brief (in triplicate)
<input type="checkbox"/> Amendment/Response <input type="checkbox"/> Preliminary <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets ____]	<input checked="" type="checkbox"/> Request For Continued Examination (RCE) Transmittal <input type="checkbox"/> Power of Attorney (Revocation of Prior Powers) <input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Status Inquiry <input checked="" type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8 <input type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8
<input type="checkbox"/> Petition for Extension of Time	<input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below)
<input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Form PTO-1449 <input type="checkbox"/> Copies of IDS Citations	<input type="checkbox"/> Small Entity Statement <input type="checkbox"/> CD(s) for large table or computer program	<input checked="" type="checkbox"/> Renewed Request for Continued Examination <input checked="" type="checkbox"/> Copy of Request For Reconsideration Of Amendment Non-Entry and Conditional Request For Continued Examination
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Amendment After Allowance	
<input type="checkbox"/> Sequence Listing submission <input type="checkbox"/> Paper Copy/CD <input type="checkbox"/> Computer Readable Copy <input type="checkbox"/> Statement verifying identity of above	<input type="checkbox"/> Request for Certificate of Correction <input type="checkbox"/> Certificate of Correction (in duplicate)	

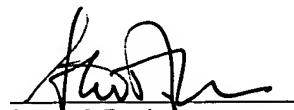
CORRESPONDENCE ADDRESS

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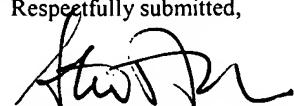

Steven J. Frank
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125 High Street
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**FEES TRANSMITTAL
FY 2004**

Express Mail Label No. EV334240480US

Complete if Known	
Application Serial Number	10/022,689
Filing Date	December 17, 2001
First Named Inventor	Eugene A. Fitzgerald
Group Art Unit	2813
Examiner Name	Laura M. Schillinger
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METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																											
1. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other		3. ADDITIONAL FEES <table border="1"> <thead> <tr> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>130</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>50</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>130</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>2,520</td><td>2,520</td><td>Request for ex parte reexamination</td><td></td></tr> <tr><td>110</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>420</td><td>210</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>950</td><td>475</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1480</td><td>740</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>2010</td><td>1005</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>330</td><td>165</td><td>Notice of Appeal</td><td></td></tr> <tr><td>330</td><td>165</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>290</td><td>145</td><td>Request for oral hearing</td><td></td></tr> <tr><td>130</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr> <tr><td>180</td><td>180</td><td>Submission of Information Disclosure Statement</td><td></td></tr> <tr><td>770</td><td>385</td><td>Filing a submission after final rejection (37 CFR 1.129(a))</td><td></td></tr> <tr><td>770</td><td>385</td><td>For each additional invention to be examined (37 CFR 1.129(b))</td><td></td></tr> <tr><td>100</td><td>100</td><td>Certificate of Correction for applicant's error</td><td></td></tr> <tr><td>110</td><td>55</td><td>Submission of Terminal Disclaimer</td><td></td></tr> <tr><td></td><td></td><td>Request for Continued Examination</td><td>770.00</td></tr> <tr> <td colspan="4">Other fee (Specify)</td> </tr> <tr> <td colspan="4">Other fee (Specify)</td> </tr> </tbody></table>				Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid	130	65	Surcharge - late filing fee or oath		50	25	Surcharge - late provisional filing fee or cover sheet		130	130	Non-English specification		2,520	2,520	Request for ex parte reexamination		110	55	Extension for reply within first month		420	210	Extension for reply within second month		950	475	Extension for reply within third month		1480	740	Extension for reply within fourth month		2010	1005	Extension for reply within fifth month		330	165	Notice of Appeal		330	165	Filing a brief in support of an appeal		290	145	Request for oral hearing		130	130	Petitions to the Commissioner		180	180	Submission of Information Disclosure Statement		770	385	Filing a submission after final rejection (37 CFR 1.129(a))		770	385	For each additional invention to be examined (37 CFR 1.129(b))		100	100	Certificate of Correction for applicant's error		110	55	Submission of Terminal Disclaimer				Request for Continued Examination	770.00	Other fee (Specify)				Other fee (Specify)			
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2. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531. <input type="checkbox"/> Required Fees (copy of this sheet enclosed). <input checked="" type="checkbox"/> Additional fee required under 37 CFR 1.16 and 1.17. <input checked="" type="checkbox"/> Overpayment Credit.		1. FILING FEE <table border="1"> <thead> <tr> <th>Large Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>770</td><td>Utility filing fee</td><td></td></tr> <tr><td>340</td><td>Design filing fee</td><td></td></tr> <tr><td>160</td><td>Provisional filing fee</td><td></td></tr> </tbody> </table> Number Filed Number Extra Rate Amount <table border="1"> <thead> <tr> <th>Number Filed</th> <th>Number Extra</th> <th>Rate</th> <th>Amount</th> </tr> </thead> <tbody> <tr><td>Total Claims</td><td>- 20 =</td><td>x \$ 18.00 =</td><td></td></tr> <tr><td>Independent Claims</td><td>- 3 =</td><td>x \$ 86.00 =</td><td></td></tr> <tr><td colspan="2"><input type="checkbox"/> Multiple Dependent Claim(s), if any</td><td>\$290.00 =</td><td></td></tr> <tr> <td colspan="4">TOTAL: SMALL ENTITY DISCOUNT: SUBTOTAL (1) (\$)</td> </tr> </tbody> </table> 2. AMENDMENT CLAIM FEES <table border="1"> <thead> <tr> <th>Claims Remaining After Amend.</th> <th>Highest No. Previously Paid For</th> <th>Present Extra</th> <th>Rate</th> <th>Fee Paid</th> <th>SUBTOTAL (3) (\$)</th> </tr> </thead> <tbody> <tr><td>Total</td><td>-</td><td>=</td><td>x \$ 18.00 =</td><td></td><td></td></tr> <tr><td>Indep.</td><td>-</td><td>=</td><td>x \$ 86.00 =</td><td></td><td></td></tr> <tr><td colspan="2"><input type="checkbox"/> First Presentation of Multiple Dep. Claim</td><td></td><td>+\$290.00 =</td><td></td><td></td></tr> <tr> <td colspan="4">TOTAL: SMALL ENTITY DISCOUNT: SUBTOTAL (2) (\$)</td> <td></td> <td>SUBTOTAL (1) SUBTOTAL (2) SUBTOTAL (3) 770.00</td> </tr> <tr> <td colspan="4"></td> <td></td> <td>TOTAL (\$) 770.00</td> </tr> </tbody> </table>				Large Entity Fee (\$)	Fee Description	Fee Paid	770	Utility filing fee		340	Design filing fee		160	Provisional filing fee		Number Filed	Number Extra	Rate	Amount	Total Claims	- 20 =	x \$ 18.00 =		Independent Claims	- 3 =	x \$ 86.00 =		<input type="checkbox"/> Multiple Dependent Claim(s), if any		\$290.00 =		TOTAL: SMALL ENTITY DISCOUNT: SUBTOTAL (1) (\$)				Claims Remaining After Amend.	Highest No. Previously Paid For	Present Extra	Rate	Fee Paid	SUBTOTAL (3) (\$)	Total	-	=	x \$ 18.00 =			Indep.	-	=	x \$ 86.00 =			<input type="checkbox"/> First Presentation of Multiple Dep. Claim			+\$290.00 =			TOTAL: SMALL ENTITY DISCOUNT: SUBTOTAL (2) (\$)					SUBTOTAL (1) SUBTOTAL (2) SUBTOTAL (3) 770.00						TOTAL (\$) 770.00																				
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Direct all correspondence to: Patent Administrator Testa, Hurwitz & Thibeault, LLP High Street Tower-125 High Street Boston, MA 02110 Tel. No.: (617) 248-7000 Fax No.: (617) 248-7100		Respectfully submitted,  Steven J. Frank Attorney for the Applicants Testa, Hurwitz & Thibeault, LLP High Street Tower-125 High Street Boston, MA 02110																																																																																											



5-14-04

IFW RCE
2813

Express Mail Label No. EV334240480US

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

ADDRESS TO: Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application No.	10/022,689
Filing Date	December 17, 2001
First Named Inventor	Eugene A. Fitzgerald
Group Art Unit	2813
Examiner Name	Laura M. Schillinger
Attorney Docket No.	ASC-023DVC2

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

NOTES

RCE v. CPA: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA.

FEE AND SUBMISSION REQUIRED: A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111 (see 37 C.F.R. 1.114 (c)).

RCE APPLIES TO: An application in which prosecution is closed (see 37 C.F.R. § 1.114 (b)).

RCE DOES NOT APPLY TO: (1) A provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995; (3) an international application filed under 35 U.S.C. 363 before June 8, 1995; (4) an application for a design patent; or (5) a patent under reexamination (see 37 C.F.R. 1.114(e)).

1. SUBMISSION REQUIRED UNDER 37 C.F.R. § 1.114

- a. Enter and consider the unentered amendment under 37 C.F.R. § 1.116 previously filed on December 2, 2003.
- b. Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____.
- c. Amendment/Response enclosed.
- d. Affidavit(s)/Declaration(s) enclosed.
- e. Information Disclosure Statement (IDS) enclosed.
 - i. PTO-1449
 - ii. Copies of IDS Citations
- f. Other _____.

2. RCE FEE REQUIRED UNDER 37 C.F.R. § 1.114

- a. Small entity status
 - i. was established in the prior nonprovisional application.
 - ii. is established herewith by the enclosed written assertion of entitlement to small entity status.
- b. A Petition and Fee for Extension of Time for _____ months up to and including _____ is enclosed herewith.
- c. A check in the amount of \$ 770.00 is enclosed.
- d. The Commissioner is hereby authorized to charge the required fee(s), i.e., \$ _____, to Deposit Account No. 20-0531.
- e. The Commissioner is hereby authorized to credit overpayments or charge any additional fees required for this submission under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 20-0531.

3. MISCELLANEOUS

- a. Return Receipt Postcard enclosed.
- b. Other: Renewed Request for Continued Examination.
- c. Other: Copy of Request For Reconsideration Of Amendment Non-Entry and Conditional Request For Continued Examination.

CORRESPONDENCE ADDRESS	SIGNATURE BLOCK
<p>Direct all correspondence to: Patent Administrator Testa, Hurwitz & Thibeault, LLP High Street Tower 125 High Street Boston, MA 02110 Tel. No.: (617) 248-7000 Fax No.: (617) 248-7100</p>	<p>Respectfully submitted,</p> <p></p> <p>Steven J. Frank Attorney for Applicant(s) Testa, Hurwitz & Thibeault, LLP High Street Tower 125 High Street Boston, MA 02110</p>

FRANKSJ\5473\178.3066343_1



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Commissioner for Patents
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Alexandria, VA 22313-1450

RENEWED REQUEST FOR CONTINUED EXAMINATION

This paper reiterates our request for continued examination in the above-referenced case. On April 7, 2004, in response to the Advisory Action mailed on March 10, 2004 (which denied entry of the amendment we filed on December 2, 2003), we submitted a Request For Reconsideration Of Amendment Non-Entry and Conditional Request For Continued Examination (copy included herewith). This paper requested continued examination in the event our request for reconsideration was unsuccessful. The Examiner did, in fact, deny our request for entry of the December 2 amendment, but did not act on the request for continued examination.

Accordingly, we hereby renew that request, the effective date of which remains April 7, 2004. No extension fee should therefore be necessary, but the Office is authorized to charge any fee occasioned by this paper to our Deposit Account No. 20-0531.

Respectfully submitted,



Steven J. Frank

Attorney for Applicant(s)

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